

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KIRKPATRICK B. DUNBAR,

Plaintiff

against-

Case No.:1:18-CV-9625
Deborah A. Batts, United States District Judge

NOTICE OF MOTION

EMPIRE SZECHUAN NOODLE HOUSE
INC., and NEW GOLD EQUITIES CORP.,

Defendants

PLEASE TAKE NOTICE that upon the annexed Declaration of Donald Olenick, Esq., dated December 5th, 2019, the Exhibits annexed and Defendant's Memorandum of Law, the Defendant New Gold Equities Corp. will move before a Motion Term of this Court at Court Room 24B in the United States Courthouse, located at 500 Pearl Street, in the City, County and State of New York for an Order pursuant Rule 12 Fed. R. Civ. P. and the Order of this Court filed November 19, 2019,

Dismissing the action pursuant to the Americans with Disabilities Act, 42 U.S.C. 12181, et seq., with prejudice as to all defendants upon the ground that the Action is moot, there no longer being a place of "Public Accommodation" by reason of the eviction of the co-defendant restaurant operator from the subject premises, and

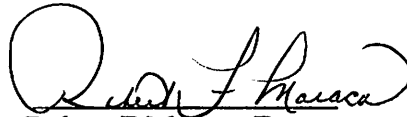
Dismissing the action pursuant to the New York City Human Rights Law, NYC Admin. Code 8-107(4)(a) and the New York State Human Rights Law, NYS Exec. Law 296 (2)(a) without prejudice as to defendant New Gold upon the ground that where jurisdiction over the state action is supplementary to a federal action over which the Court no longer has jurisdiction,

there is no reason for the U.S. District Court to retain jurisdiction over state and local claims in which there is no federal interest, and

Dismissing the action pursuant to the New York City Human Rights Law, NYC Admin. Code 8-107(4)(a) and the New York State Human Rights Law, NYS Exec. Law 296 (2)(a) with prejudice as to defendant Empire upon the ground that Plaintiff did not sue the operator of the restaurant on the date the action accrued and instead sued its predecessor.

PLEASE TAKE FURTHER NOTICE that opposition papers are required to be filed within 30 days after defendants file these motion papers and that replies are to be filed within 14 days thereafter.

Dated: New York, New York
December 5th, 2019



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